

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Janine Zajac	Team: Team # 1	CCRB Case #: 201010077	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thu, 07/22/2010 1:15 PM	Location of Incident: In front of 201 Bay Street	Precinct: 120	S.O.L. Expires: 01/22/2012		
Date/Time CV Reported Fri, 07/23/2010 3:47 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 07/23/2010 3:47 PM		

Complainant/Victim	Type	Home Address
1. G [REDACTED] H [REDACTED]	Comp/Victim	[REDACTED]
2. M [REDACTED] S [REDACTED]	Victim	[REDACTED]
3. L [REDACTED] S [REDACTED]	Victim	[REDACTED]
4. M [REDACTED] P [REDACTED]	Victim	Unknown

Subject Officer(s)	Shield	TaxID	Command
1. POF D [REDACTED] C [REDACTED]	[REDACTED]	[REDACTED]	120 PCT
2. POM G [REDACTED] H [REDACTED]	[REDACTED]	[REDACTED]	120 PCT
3. SGT I [REDACTED] C [REDACTED]	[REDACTED]	[REDACTED]	120 PCT
4. POM M [REDACTED] D [REDACTED]	[REDACTED]	[REDACTED]	120 PCT
5. POM J [REDACTED] F [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED] PCT
6. POM Christopher Hebert	24213	943363	120 PCT
7. POM J [REDACTED] R [REDACTED]	[REDACTED]	[REDACTED]	120 PCT

Officer(s)	Allegation	Investigator Recommendation
A . SGT I [REDACTED] C [REDACTED]	Abuse of Authority: Sgt. I [REDACTED] C [REDACTED] authorized the stops of G [REDACTED] H [REDACTED] M [REDACTED] S [REDACTED] L [REDACTED] S [REDACTED] and M [REDACTED] P [REDACTED]	A . Substantiated
B . SGT I [REDACTED] C [REDACTED]	Abuse of Authority: Sgt. I [REDACTED] C [REDACTED] authorized the frisks of G [REDACTED] H [REDACTED] M [REDACTED] S [REDACTED] L [REDACTED] S [REDACTED] and M [REDACTED] P [REDACTED]	B . Substantiated
C . SGT I [REDACTED] C [REDACTED]	Abuse of Authority: Sgt. I [REDACTED] C [REDACTED] authorized the searches of G [REDACTED] H [REDACTED] M [REDACTED] S [REDACTED] and M [REDACTED] P [REDACTED]	C . Unsubstantiated
D . POF D [REDACTED] C [REDACTED]	Abuse of Authority: PO D [REDACTED] C [REDACTED] frisked L [REDACTED] S [REDACTED]	D . Alleged Victim Uncooperative
E . POM Christopher Hebert	Abuse of Authority: PO Christopher Hebert searched the car in which L [REDACTED] S [REDACTED] was an occupant.	E . Alleged Victim Uncooperative
F . SGT I [REDACTED] C [REDACTED]	Other: Sgt. I [REDACTED] C [REDACTED] failed to prepare a stop and frisk report as required.	F . Other Misconduct
G . SGT I [REDACTED] C [REDACTED]	Other: Sgt. I [REDACTED] C [REDACTED] failed to prepare a memo book entry as required.	G . Other Misconduct
H . POM G [REDACTED] H [REDACTED]	Other: PO G [REDACTED] H [REDACTED] failed to prepare a stop and frisk report as required.	H . Other Misconduct
I . POM G [REDACTED] H [REDACTED]	Other: PO G [REDACTED] H [REDACTED] failed to prepare a memo book entry as required.	I . Other Misconduct
J . POM M [REDACTED] D [REDACTED]	Other: PO M [REDACTED] D [REDACTED] failed to prepare a stop and frisk report as required.	J . Other Misconduct

Officer(s)	Allegation	Investigator Recommendation
K . POM M ■ D ■	Other: PO M ■ D ■ failed to prepare a memo book entry as required.	K . Other Misconduct
L . POF D ■ C ■	Other: PO D ■ C ■ failed to prepare a stop and frisk report as required.	L . Other Misconduct
M . POF D ■ C ■	Other: PO D ■ C ■ failed to prepare a memo book entry as required.	M . Other Misconduct
N . POM Christopher Hebert	Other: Christopher Hebert failed to prepare a stop and frisk report as required.	N . Other Misconduct
O . POM Christopher Hebert	Other: PO Christopher Hebert failed to prepare a memo book entry as required.	O . Other Misconduct
P . POM J ■ F ■	Other: PO J ■ F ■ failed to prepare a memo book entry as required.	P . Other Misconduct
Q . POM J ■ R ■	Other: PO J ■ R ■ failed to prepare a memo book entry as required.	Q . Other Misconduct

Case Summary

At approximately 3:47 pm on July 23, 2010, G [REDACTED] H [REDACTED] filed the following complaint with the CCRB over the phone.

At approximately 1:15 pm on July 22, 2010, G [REDACTED] H [REDACTED] met up with his brother, M [REDACTED] S [REDACTED] his mother, L [REDACTED] S [REDACTED] and his brother's friend, M [REDACTED] P [REDACTED] in front of 201 Bay Street in Staten Island. There, they interacted with Sgt. I [REDACTED] C [REDACTED] of the 120th Precinct and his SNEU team, including PO G [REDACTED] H [REDACTED] PO M [REDACTED] D [REDACTED] PO D [REDACTED] C [REDACTED] and PO Christopher Hebert. The following allegations resulted from their interactions.

- **Allegation A – Abuse of Authority:** Sgt. I [REDACTED] C [REDACTED] authorized the stops of G [REDACTED] H [REDACTED] M [REDACTED] S [REDACTED] L [REDACTED] S [REDACTED] and M [REDACTED] P [REDACTED]
- **Allegation B – Abuse of Authority:** Sgt. I [REDACTED] C [REDACTED] authorized the frisks of G [REDACTED] H [REDACTED] M [REDACTED] S [REDACTED] L [REDACTED] S [REDACTED] and M [REDACTED] P [REDACTED] As Sgt. C [REDACTED] was not justified in authorizing the stops and frisks of the named individuals, it is recommended that **allegations A and B be substantiated.**
- **Allegation C – Abuse of Authority:** Sgt. I [REDACTED] C [REDACTED] authorized the searches of G [REDACTED] H [REDACTED] M [REDACTED] S [REDACTED] and M [REDACTED] P [REDACTED] As it cannot be determined if Mr. H [REDACTED] Mr. S [REDACTED] or Mr. P [REDACTED] were searched during this incident, it is recommended that **allegation C be unsubstantiated.**
- **Allegation D – Abuse of Authority:** PO D [REDACTED] C [REDACTED] frisked L [REDACTED] S [REDACTED]
- **Allegation E – Abuse of Authority:** PO Christopher Hebert searched the car in which L [REDACTED] S [REDACTED] was an occupant. As Ms. S [REDACTED] did not participate in this investigation, it is recommended that **allegations D and E be closed as victim uncooperative.**
- **Allegation F – Other Misconduct:** Sgt. I [REDACTED] C [REDACTED] failed to prepare a Stop, Question, and Frisk Report as required.
- **Allegation G – Other Misconduct:** Sgt. I [REDACTED] C [REDACTED] failed to prepare a memo book entry as required.
- **Allegation H – Other Misconduct:** PO G [REDACTED] H [REDACTED] failed to prepare a Stop, Question, and Frisk Report as required.
- **Allegation I – Other Misconduct:** PO G [REDACTED] H [REDACTED] failed to prepare a memo book entry as required.
- **Allegation J – Other Misconduct:** PO M [REDACTED] D [REDACTED] failed to prepare a Stop, Question, and Frisk Report as required.
- **Allegation K – Other Misconduct:** PO M [REDACTED] D [REDACTED] failed to prepare a memo book entry as required.
- **Allegation L – Other Misconduct:** PO D [REDACTED] C [REDACTED] failed to prepare a Stop, Question, and Frisk Report as required.
- **Allegation M – Other Misconduct:** PO D [REDACTED] C [REDACTED] failed to prepare a memo book entry as required.
- **Allegation N – Other Misconduct:** PO Christopher Hebert failed to prepare a Stop, Question, and Frisk Report as required.
- **Allegation O – Other Misconduct:** PO Christopher Hebert failed to prepare a memo book entry as required.
- **Allegation P – Other Misconduct:** PO J [REDACTED] F [REDACTED] failed to prepare a memo book entry as required.
- **Allegation Q – Other Misconduct:** PO Jon M [REDACTED] R [REDACTED] failed to prepare a memo book entry as required. As none of the officers on Sgt. Conca's team created any

documentation regarding this incident or the observations that led up to it, it is recommended that **other misconduct** be noted for **allegations F-Q**.

Results of Investigation

Civilian Statements

Complainant/Victim: G [REDACTED] H [REDACTED]

- *Twenty-nine-year-old black [REDACTED] black hair and brown eyes. He works at Wagner College.*

G [REDACTED] H [REDACTED] was interviewed at the CCRB on August 20, 2010 (encl. 8a-e). His CCRB statement was consistent with his original complaint with exceptions noted below. On July 22, 2010, he took the bus to the Human Resources Administration Department of Social Services office at 201 Bay Street in Staten Island where his mother, L [REDACTED] S [REDACTED] works, to meet his brother, M [REDACTED] S [REDACTED]. Mr. H [REDACTED] was wearing blue jeans and a grey and black polo shirt. He had his wallet, cigarettes and keys all in his front left pants pocket, and his phone was in his front right pants pocket. Mr. H [REDACTED] got off the bus at the bus stop located immediately in front of the Human Resources Administration Department of Social Services office building at approximately 1:00 PM. As he was getting off the bus and approaching his brother and his brother's friend, identified through the investigation as M [REDACTED] P [REDACTED] his mother was walking away down the block to where her car was parked. Her car was parked 30-40 feet away, but it was not visible from where the men stood together. He guessed that Mr. S [REDACTED] and Mr. P [REDACTED] had been there for 10-15 minutes already. Mr. H [REDACTED] yelled a greeting to his mother but he did not speak with her any further. Mr. S [REDACTED] and Mr. P [REDACTED] were standing at the side of the building, and Mr. H [REDACTED] approached them. He could not recall if he shook hands with either of them when he reached them. Mr. S [REDACTED] was wearing green khaki shorts and a sleeveless w [REDACTED] t-shirt and had his black backpack on his back. Mr. P [REDACTED] was wearing jean shorts and a red and w [REDACTED] striped t-shirt and had a black backpack on as well. Mr. H [REDACTED] later learned from Ms. S [REDACTED] that before he arrived on the bus, Ms. S [REDACTED] gave Mr. S [REDACTED] a Metrocard when she first exited her office building. In his initial complaint, Mr. H [REDACTED] said that Mr. S [REDACTED] gave Mr. H [REDACTED] money for a Metrocard after Mr. S [REDACTED] had received it from Ms. S [REDACTED].

The three men stood and talked for approximately 5-10 minutes, and no one else spoke with them during this time. During their conversation, Mr. S [REDACTED] pulled papers out of his backpack and handed them to Mr. H [REDACTED]. These papers were regarding Mr. Spann's New York State residency for his upcoming first year of college. An officer, identified as PO D [REDACTED] C [REDACTED] approached the three men. Mr. H [REDACTED] described her as a 5'2" w [REDACTED] female in her late 20s or early 30s with blonde or brown hair and a skinny build. She stood in front of them and looked at them for less than a minute but did not say anything. She was wearing jeans and a t-shirt, and had a bulletproof vest over her shirt. Two additional officers, identified through investigation as PO G [REDACTED] H [REDACTED] and PO M [REDACTED] D [REDACTED] then came from behind her. It appeared to Mr. H [REDACTED] that they had been standing behind supports for the elevated train nearby prior to their approach. PO H [REDACTED] was a 5'8"-5'9" black male, [REDACTED] old, approximately 215 lbs, with a full and short beard and wearing a Yankees hat. PO D [REDACTED] was a 6'0" w [REDACTED] male, 36 years old, black hair with a receding hair line, 230 lbs and wearing glasses. PO H [REDACTED] and PO D [REDACTED] also had bulletproof vests over their shirts.

PO D [REDACTED] told the three men to get against the wall. Mr. H [REDACTED] still had his brother's residency papers in his hand and tried to explain what they were doing. Mr. H [REDACTED] asked what the problem was, and he heard one of the officers saying, "Is this them?" into his radio. He could

not hear what the response on the other end of the radio was. One of the officers first said that they were being stopped because there had been a crime in the area, and the same officer then later said that it was because they were in a drug area and that the officers had been watching them for 10 or 15 minutes. PO C [REDACTED] stood near Mr. H [REDACTED] while PO H [REDACTED] stood with Mr. P [REDACTED] and PO D [REDACTED] was with Mr. S [REDACTED]. Mr. H [REDACTED] saw PO H [REDACTED] pat Mr. P [REDACTED] down from his shoulders, down his chest, torso, and legs. PO H [REDACTED] reached into all of Mr. P [REDACTED]'s pockets. Mr. H [REDACTED] saw PO D [REDACTED] frisk Mr. S [REDACTED] in the same manner, but also reach into his socks and into his waistband. PO D [REDACTED] reached into all of Mr. S [REDACTED]'s pockets, as well. PO H [REDACTED] then approached Mr. H [REDACTED] and briefly patted him down from shoulders to his ankles. PO H [REDACTED] reached into Mr. H [REDACTED]'s front left jeans pocket and retrieved his wallet, from which he retrieved his ID and wrote down his information. He believed that the officers wrote down Mr. S [REDACTED] and Mr. P [REDACTED]'s information as well. Mr. H [REDACTED] tried to explain to the officers what they were doing there and that Mr. S [REDACTED] and Mr. P [REDACTED] were just kids, but PO H [REDACTED] only told him to calm down. Mr. H [REDACTED] was approximately 3 yards from Mr. S [REDACTED] and Mr. P [REDACTED] as this all happened.

Once PO H [REDACTED] approached Mr. H [REDACTED], PO C [REDACTED] walked away. PO C [REDACTED] did not make physical contact with Mr. H [REDACTED]. Once PO H [REDACTED] and PO D [REDACTED] finished their frisks and searches, they talked with Mr. H [REDACTED] about how he used to be a football player in high school. They asked him why he was not playing for the NFL because he was well known in the past as one of the best players in New York City. After these comments, the officers quickly left. Mr. H [REDACTED] saw PO H [REDACTED] and PO D [REDACTED] leave together in a black Impala.

Sometime toward the end of the frisks and searches, an unmarked car, a blue sedan, arrived with two officers inside. Only one of the officers got out of the car, but he stayed next to the car and did not get involved in the incident or interact with anyone. Mr. H [REDACTED] thought that maybe these officers were in charge of spotting people, and that PO C [REDACTED], PO H [REDACTED] and PO D [REDACTED] were in charge of apprehending them. He gathered this based on the communication he overheard at the beginning of the incident. Once PO H [REDACTED] and PO D [REDACTED] left, Mr. H [REDACTED] walked over to where Ms. S [REDACTED]'s car was parked, and he then learned that PO C [REDACTED] had patted her down and that she searched her car by shining a flashlight under the seats. Approximately 7-8 people watched Ms. S [REDACTED]'s interaction with PO C [REDACTED] and he believed that his mother's supervisor and some of her coworkers were present but he did not know for certain. He did not know the names of these individuals. Two weeks prior to this incident, Mr. H [REDACTED] was stopped by these same officers at a different location but he was not interested in filing a complaint about that or any other incident.

Victim: M [REDACTED] S [REDACTED]

- *Nineteen-year-old black [REDACTED] hair and brown eyes. He is currently a student at Hudson Valley Community College.*

As Mr. S [REDACTED] was at college outside of New York City at the time, he was unable to come to the CCRB to give a statement in person and gave a verified interview over the phone on September 7, 2010 (encl. 9a-c). His statement was consistent with Mr. H [REDACTED]'s with the following exceptions and new information. On the date of the incident, Mr. S [REDACTED] and his friend, M [REDACTED] P [REDACTED] went to see his mother, L [REDACTED] S [REDACTED] at her place of employment. Mr. S [REDACTED] was wearing grey cargo shorts and a blue t-shirt and had a black North Face backpack with him. Mr. S [REDACTED] had his keys and phone in his front pants pockets but did not know which pockets. Mr. S [REDACTED] needed to pick up money from Ms. S [REDACTED] so he could complete some paperwork and payments for school. Mr. S [REDACTED] called his mother when they arrived at approximately 12:30 pm so she could come outside. Mr. S [REDACTED] and Mr. P [REDACTED] waited near the doors of her building and

Ms. S [REDACTED] came downstairs approximately two minutes after he called her. Once she was outside she gave Mr. S [REDACTED] twenty or thirty dollars in cash, which had been in her hand. She then walked to her car, which was parked nearby. He could not recall where her car was parked, but he could not see it from where he stood. As Ms. S [REDACTED] walked to her car, Mr. S [REDACTED]'s brother, G [REDACTED] H [REDACTED] arrived. They all greeted each other but did not shake hands. Mr. S [REDACTED] Mr. P [REDACTED] and Mr. H [REDACTED] talked for approximately five minutes. Mr. S [REDACTED] took a folder of paperwork out of his backpack. He then took a form out of the folder and gave it to Mr. H [REDACTED] along with the cash his mother had given him. Mr. H [REDACTED] then began to talk to Mr. P [REDACTED].

Two officers approached almost immediately after Mr. S [REDACTED] gave the money and the paperwork to Mr. H [REDACTED] and told Mr. H [REDACTED] to get against the wall. One of these officers was identified through investigation as PO C [REDACTED] and Mr. S [REDACTED] described her as a w [REDACTED] female of an unknown age, 5'6", in plainclothes with a bulletproof vest. With her was an officer identified through investigation as Sgt. C [REDACTED] who Mr. S [REDACTED] described as a w [REDACTED] male, 5'10" with a muscular build, in his 30s with spiky black hair. She stayed with the three men for approximately a minute, and then walked in the direction Ms. S [REDACTED] had gone. Sgt. C [REDACTED] told Mr. S [REDACTED] to get against the wall and then two additional officers, identified through investigation as PO H [REDACTED] and PO D [REDACTED] arrived.

Sgt. C [REDACTED] interacted with Mr. P [REDACTED] first and then Mr. S [REDACTED]. Mr. S [REDACTED] later said that Sgt. C [REDACTED] interacted with himself first and then went to Mr. P [REDACTED] afterward. Sgt. C [REDACTED] told Mr. P [REDACTED] to unbuckle his belt and then frisked his groin and shook his shorts. He did not notice if Sgt. C [REDACTED] reached into Mr. P [REDACTED]'s shorts. Mr. P [REDACTED] had a backpack on, which had clothes inside of it, and Sgt. C [REDACTED] told him to take it off, which he did. Sgt. C [REDACTED] unzipped the backpack, looked inside it, and reached into it but did not pull anything out. Sgt. C [REDACTED] then gave Mr. P [REDACTED]'s backpack back to him. Sgt. C [REDACTED] frisked Mr. S [REDACTED]'s groin and shook his shorts to see if anything would fall out. Sgt. C [REDACTED] also reached into his front shorts pockets. Mr. S [REDACTED] was holding his own backpack. Sgt. C [REDACTED] asked him for it and he gave it to him. Sgt. C [REDACTED] unzipped it and reached into it but did not take anything out. The backpack had a folder of papers inside and nothing else. Mr. S [REDACTED] and Mr. P [REDACTED] both had black North Face backpacks.

PO H [REDACTED] interacted with Mr. H [REDACTED] against the wall a couple of feet away. PO H [REDACTED] asked Mr. H [REDACTED] for his ID, which he then supplied. Mr. S [REDACTED] did not pay attention to what else was going on between Mr. H [REDACTED] and PO H [REDACTED]. PO D [REDACTED] did not do anything and mostly just stood nearby while the other officers interacted with them. He did not notice anyone watching what happened during the incident. PO C [REDACTED] returned to where Mr. S [REDACTED] Mr. P [REDACTED] and Mr. H [REDACTED] were after they had all been searched and wished Mr. S [REDACTED] good luck at school. The officers then left. The incident lasted approximately ten or fifteen minutes.

Attempts to Contact Civilians

Mr. H [REDACTED] did not provide a phone number for Ms. S [REDACTED] when he initially filed his complaint. A Lexis Nexis search on July 29, 2010 produced one phone number but it was disconnected. Letters were sent to Ms. S [REDACTED] on July 26, 2010 and August 3, 2010. Ms. S [REDACTED] called the investigator on August 12, 2010 and said she received both letters. She provided her work phone number but was unable to schedule an appointment and said she would call the investigator back. The investigator called her work number on August 20, 2010, but the person who answered said she was on vacation and a message was left. Mr. H [REDACTED] provided Ms. S [REDACTED]'s cell phone number during his CCRB interview. The investigator called her cell phone on August 23, 2010 and August 27, 2010, but she was unable to schedule an appointment during both calls. A voice message was left for her September 1, 2010. Two additional voice messages were made to Ms. S [REDACTED] at her personal work phone number, for which the outgoing voicemail

message confirms that the number belongs to Ms. S [REDACTED] on June 15, 2011 and June 22, 2011. As of this report, Ms. S [REDACTED] has not called the investigator to schedule an appointment.

Mr. S [REDACTED] did not have Mr. Pender's contact information other than that he lives in the Bronx. A Lexis Nexis search was performed on September 1, 2010 with this limited information, but no relevant results were produced.

NYPD Statements:

Subject Officer: SGT. I [REDACTED] C [REDACTED]

- [REDACTED]
- *On the date of the incident he worked from 8:00 am until 4:57 pm as the SNEU supervisor. He was working in plainclothes with PO Hebert and PO C [REDACTED] in an unmarked blue Crown Victoria #8863.*

Memo Book

Sgt. C [REDACTED] did not have memo book entries pertaining to this incident (encl. 14a-b).

CCRB Testimony

Sgt. C [REDACTED] was interviewed at the CCRB on November 4, 2010 (encl. 15a-b). On the date of the incident, Sgt. C [REDACTED] and his team were conducting a SNEU operation in the vicinity of Bay Street and Victory Boulevard, which began at 1:00 pm. This area is heavily drug prone and the 120th Precinct receives many complaints about drug activity there.

There were two officers who were conducting observations in the area, PO F [REDACTED] and PO R [REDACTED]. Sgt. C [REDACTED] did not know exactly where they were located while conducting their observation. These two observed a hand-to-hand transaction in which money was exchanged for an unknown object between one female and three males. They saw an object get placed into a bag and then called out the location of these individuals. The observation officers did not specify what kind of object was exchanged for the money, and Sgt. C [REDACTED] noted that the observation occurred from some distance which would have inhibited a clear sight of what the object was. The officers also transmitted a description of the individuals, but Sgt. C [REDACTED] could not recall what these descriptions were.

Sgt. C [REDACTED] was heading to that location when the observation officers informed him that the group split up. Sgt. C [REDACTED], PO C [REDACTED] and PO Hebert arrived at the specified location and these males were the only people at the location at the time. PO C [REDACTED] and PO Hebert approached the female. They left Sgt. C [REDACTED] alone, and he told the three males that he was an officer and told them to show their hands. PO H [REDACTED] and PO D [REDACTED] arrived in a different car to assist with the three males 30-40 seconds after Sgt. C [REDACTED] arrived.

The officers explained to the males what the situation was. Sgt. C [REDACTED] interacted with one individual primarily and also frisked him, though he did not recall the name of this individual and did not write it down. Sgt. C [REDACTED] frisked the front and back of his waistband, underneath his arms and underneath his shoulders, and down his legs. He could not recall how this individual was dressed. Sgt. C [REDACTED] asked him to stay still when he first approached but the individual moved his hands in the area of his waistband and/or legs. Sgt. C [REDACTED] found this to be suspicious. He had not seen any bulges on this individual's person that led him to believe he was armed, and he did not feel any suspicious items during the frisk. PO H [REDACTED] and PO D [REDACTED] were talking to the other two males, whom they also frisked. They did not recover any items from these individuals. Sgt. C [REDACTED] did not remember if any of the males had bags with them, and he did not remember if he looked inside of any bags.

Less than a minute into Sgt. Conca's interaction with the males, PO C [REDACTED] came back to

where Sgt. C [REDACTED] was and explained that the female was the mother of one of the individuals and that she had given them money to get on the subway for school. PO C [REDACTED] did not give further details about what had happened with the mother and did not indicate that she had frisked the mother or searched her vehicle. This interaction with the mother had taken place directly behind Sgt. C [REDACTED] and he did not look over to see what was happening there during the incident. Sgt. C [REDACTED] then told his observation officers over the radio that this had not been a drug transaction and that they should keep looking. The observation officers did not come to the scene of this incident. There was a conversation with one of the individuals who used to play football, but this was not the individual that Sgt. C [REDACTED] had frisked. Sgt. C [REDACTED] then explained again to the individuals who had been stopped what had been observed. They seemed to understand and there was no conflict. Sgt. C [REDACTED] instructed his officers to take the information of all four people down. He did not know who completed Stop, Question, and Frisk Reports for the incident.

Subject Officer: PO G [REDACTED] H [REDACTED]

- *Thirty-four-year-old black male, 5'5", 210 lbs, with black hair and brown eyes.*
- *On the date of the incident he worked from 10:00 am until 6:00 pm. He worked a SNEU assignment with PO C [REDACTED]. They were assigned to unmarked grey Impala #386.*

Memo Book

PO H [REDACTED] did not have memo book entries pertaining to this incident (encl. 12a-b).

CCRB Testimony

PO H [REDACTED] was interviewed at the CCRB on October 26, 2010 (encl.13a-b). His statement was not consistent with Sgt. Conca's. On the date of the incident, PO Howard's team was conducting an observation of the incident location because of a "kite," which is a complaint regarding narcotics activity, concerning a park located across the street from the Human Resources Administrations Department of Social Services office. One of the other officers on PO Howard's team made a call saying that a money exchange was observed between the three males and one female. He could not recall who made the call or the observation, but PO H [REDACTED] was told to stop them. He could not recall who gave him these instructions. Sgt. C [REDACTED] was in a different car at the time. PO H [REDACTED] and PO C [REDACTED] approached the males by themselves. PO D [REDACTED] is a w [REDACTED] male with glasses, but he was with Sgt. C [REDACTED].

When PO H [REDACTED] arrived, he recognized G [REDACTED] H [REDACTED] immediately because he used to be a football star on Staten Island. PO H [REDACTED] said, "Are you G [REDACTED] H [REDACTED] Mr. H [REDACTED] confirmed that he was. They then had a brief discussion about why Mr. H [REDACTED] does not play football anymore. This was the first verbal interaction between them. PO H [REDACTED] said, "Okay, not to be rude, but we saw money exchanged with a w [REDACTED] paper." This was the information that had been reported to PO H [REDACTED] in the call, and PO H [REDACTED] did not personally observe any portion of the exchange. Mr. H [REDACTED] told him that the woman was his mother. PO H [REDACTED] said, "Okay, what are you doing?" Mr. H [REDACTED] explained that he and his brother were going into the city, which was why their mother had given them money. The w [REDACTED] paper was a phone number that had been written down. The mother was approximately half a block away at this time, but PO H [REDACTED] did not know what was going on with her at the time. He did not know if any officers approached her. The rest of his team, including Sgt. C [REDACTED] was at least a block away, but PO H [REDACTED] could see them. He was unable to see the mother because of where her car was positioned in relation to the elevated train tracks.

PO H [REDACTED] did not make physical contact with Mr. H [REDACTED] and he did not know if any other officers made physical contact with him or frisked him. PO H [REDACTED] did not interact with any of the other people on scene, and did not have any further interactions with Mr. H [REDACTED]. No other

officers interacted with the other males either. PO H [REDACTED] did not interact with the other members of his team while the civilians were still present. PO H [REDACTED] wrote down information about Mr. H [REDACTED] on a piece of paper, but did not take information from anyone else. PO H [REDACTED] did not fill out a Stop, Question, and Frisk Report because he lost the piece of paper with the information about the stop written down on it.

Subject Officer: PO M [REDACTED] D [REDACTED]

- *Twenty-seven-year-old w [REDACTED] male, 5'8", 195 lbs, with black hair and brown eyes.*
- *On the date of the incident he worked from 9:30 am until 6:05 pm with PO H [REDACTED]. He was assigned to SNEU, he was dressed in plainclothes and was assigned to an unmarked vehicle.*

Memo Book

PO D [REDACTED] did not have memo book entries pertaining to this incident (encl.16a-b).

CCRB Testimony

PO D [REDACTED] was interviewed at the CCRB on November 9, 2010 (encl. 17a-b). His statement was consistent with Sgt. Conca's with the following exceptions. PO D [REDACTED] could not recall which officers were assigned to the observation post and could not recall what exactly the observation officers said in their transmission other than that they saw money exchanged. He could not remember if they had seen what the money was exchanged for. PO D [REDACTED] and PO H [REDACTED] went to the location and saw three males matching the description that had been called out. He could not recall if he and PO H [REDACTED] arrived first or if the other apprehension vehicle containing Sgt. C [REDACTED] arrived first, but said later in his interview that Sgt. C [REDACTED] joined PO D [REDACTED] and PO H [REDACTED] in their interactions with the three males a few minutes after they arrived. PO D [REDACTED] then said later in his interview that Sgt. C [REDACTED] was nearby and that it was possible that Sgt. C [REDACTED] spoke with these males but he could not recall. He remembered that PO C [REDACTED] was working with the team that day as well, but could not recall who else was present.

Upon the officers' initial approach, they identified themselves as officers, asked where the individuals were coming from, and asked for their IDs. He could not remember the details or the order of the conversation, but said these are the standard questions they ask upon approaching people. He could not remember if the males answered these questions, but knew that they provided some form of identification. One of the officers in the group obtained the males' IDs, but he could not recall who did this.

PO D [REDACTED] asked the males to take their hands out of their pockets. One or two of the males kept putting their hands in their pockets, and PO D [REDACTED] had to repeat his instruction. PO D [REDACTED] found this to be suspicious because he has, in the past, stopped people who have acted similarly who have had weapons on them. PO D [REDACTED] personally frisked one of the males who was doing this action, but he did not know which one it was. He could not recall if this particular individual had been reaching into one of his jacket pockets or one of his pants pockets. He could not recall if there were any other factors that caused him to be suspicious. He could not remember if he saw a bulge in any of the individual's pockets. PO D [REDACTED] frisked only the area that the male had reached toward and did not frisk his groin or shake his shorts. He did not recall if he felt anything during the frisk. He could not recall if he reached into this male's pockets or if he asked him to take something out of his pockets. He could not recall if PO H [REDACTED] frisked anyone. He did not recall if any of the males had bags with them and did not recall looking into any bags.

PO D [REDACTED] could not recall if the individual he frisked was the one that PO H [REDACTED] was familiar with. PO D [REDACTED] knew that at least one person was frisked, but he did not know if

the others were or in what order. PO D [REDACTED] did not personally prepare any Stop, Question, and Frisk Reports and did not know if any were prepared. PO D [REDACTED] did not approach any vehicles during this incident.

Subject Officer: PO J [REDACTED] F [REDACTED]

- *Twenty-seven-year-old w [REDACTED] male, 6'2", 220 lbs, with black hair and brown eyes.*
- *On the date of the incident he worked from 8:00 am until 4:35 pm with PO R [REDACTED]. He was assigned to SNEU, he was dressed in plainclothes, and was assigned to an unmarked blue Crown Victoria.*

Memo Book

PO F [REDACTED] did not have memo book entries pertaining to this incident (encl. 20a-b).

CCRB Testimony

PO F [REDACTED] was interviewed at the CCRB on November 18, 2010 (encl. 21a-b), and he was re-interviewed at the CCRB on July 15, 2011. PO F [REDACTED] was assigned to SNEU in April of 2009, meaning that at the time of the incident he had worked on a SNEU team for approximately 1 year and three months. He estimated that his SNEU team makes approximately six hundred arrests in one year, and the he had personally been involved in hundreds of drug arrests by the date of this incident. Before being assigned to SNEU, PO F [REDACTED] was required to go to a four day training course where he was training in hand to hand transactions, drug packaging, and other elements. He did not receive training beyond this course.

On July 22, 2011, PO F [REDACTED] was working at an observation post for a SNEU operation. He and PO R [REDACTED] were positioned on the rooftop of a four or five story building at the intersection of Victory Boulevard and St. Marks Place. He did not know the address of the building, but the owner of it has given the officers a key so they can conduct observations from the roof. The 120th Precinct gets many complaints about drug activity in that area. PO F [REDACTED] has binoculars and sometimes uses them, but he could not recall if he used them during this particular observation.

PO F [REDACTED] saw the group of males was standing on the corner, near the side a building. This drew PO Fahim's attention because there was no bus stop nearby, and they were not standing near any doors to the building. It looked to PO F [REDACTED] that they were just waiting there, so he continued to watch them but he did not know for how long he watched them. PO F [REDACTED] could not recall how long he observed the males before the exchange took place. This is a typically busy corner, but PO F [REDACTED] could not recall if there were other people around. Ms. S [REDACTED] approached them a little later, but he did not know how long it was until she walked up.

PO F [REDACTED] saw a Ms. S [REDACTED] give money to a black male, and then the male reached into his backpack and gave her a small piece of paper, which was a couple of inches long and was small enough to fit in someone's palm. He could not remember the color or shape of the piece of paper. There were a couple of other males present, but the exchange only happened between the female and one of the males. After the exchange, the female walked down Victory Boulevard toward a dead end while the males walked in the opposite direction. PO F [REDACTED] did not know if PO R [REDACTED] observed this exchange, because typically while one person is making observations the other officer watches the observing officer's back.

PO F [REDACTED] did not know how many of the males in the group spoke to Ms. S [REDACTED] and the exchange happened less than a minute after she approached. PO F [REDACTED] suspected that drugs were exchanged for the money. He stated that every kind of drug, including pills, marijuana, and cocaine, is sold at this location. Because drugs dealers use various kinds of packaging, such as tissue paper, bags, and other packaging materials, PO F [REDACTED] did not suspect that any particular drug was being exchanged; he only suspected that it was one of the various drugs that is typically

Ms. S [REDACTED] s car and did not know if other officers did so.

She could not recall if Sgt. C [REDACTED] had specific interactions with any of the individual civilians. She did not know where Sgt. C [REDACTED] was during the incident, but knew that he would have been on the scene in sight of the other officers. She did not write any information down about any of the individuals and did not know who on her team did. At some point during the incident, one of Ms. S [REDACTED] s coworkers came outside and tried to vouch for Ms. S [REDACTED] and verify that she worked there.

PO C [REDACTED] returned to the area where the three males were interacting with officers. She could not recall if the males were still being frisked when she returned. She could not recall if the civilians or the officers left first, but knew that she wished the one male good luck with his college interview. She did not recall any of the officers saying anything to Mr. H [REDACTED] about being a football player or if any of her fellow officers had stopped any of the individuals prior to this incident. She believed that someone on her team filled out Stop, Question, and Frisk reports for everyone who was stopped, but she did not know who completed these reports.

Subject Officer: PO CHRISTOPHER HEBERT

- [REDACTED] hair and brown eyes.
- On the date of the incident he worked from 9:30 am until 4:35 pm with Sgt. C [REDACTED] and PO C [REDACTED]. He was assigned to SNEU, he was dressed in plainclothes, and was assigned to an unmarked vehicle.

Memo Book

PO Hebert did not have memo book entries pertaining to this incident (encl. 18a-b).

CCRB Testimony

PO Hebert was interviewed at the CCRB on December 10, 2010 (encl. 19a-b). His statement was consistent with Sgt. Conca's with the following exceptions and new information. On the date of the incident he was in a car with Sgt. C [REDACTED] and PO C [REDACTED]. PO F [REDACTED] called over the radio that he had observed a hand-to-hand transaction at the intersection of Victory Boulevard and Bay Street. PO F [REDACTED] said he saw money exchanged for a small object, but he did not specify what the object was. The transaction had taken place between two black males and a black female. PO F [REDACTED] said that the black female had gotten into a car and was heading to the lower half of Victory Boulevard below Bay Street. PO F [REDACTED] had called out a description of the car, but PO Hebert could not recall the description during his CCRB interview. After PO F [REDACTED] described the car and the location, someone in PO Hebert's car called over that they were near the car, and Sgt. C [REDACTED] said something about how they would stop the car. Sgt. C [REDACTED] did not instruct the other members of the team to stop the two males; the other team members did this on their own accord.

Ms. S [REDACTED] drove for approximately one block, parked the car, and then got out. PO Hebert and PO C [REDACTED] approached her. Sgt. C [REDACTED] walked out of PO Hebert's sight. Sgt. C [REDACTED] did not say why he walked away, but PO Hebert assumed it was because there were only two officers with the three male suspects. PO Hebert did not remember Sgt. C [REDACTED] interacting with Ms. S [REDACTED] at all before he walked away.

Upon their initial approach, PO Hebert asked Ms. S [REDACTED] for her ID. Ms. S [REDACTED] was surprised. PO C [REDACTED] frisked Ms. S [REDACTED] and she asked Ms. S [REDACTED] questions but PO Hebert could not recall what questions were asked. He could not recall if the frisk occurred before or after PO C [REDACTED] asked questions. Ms. S [REDACTED] had left the driver's side door open when she had gotten out. When PO C [REDACTED] began to frisk Ms. S [REDACTED] PO Hebert approached the open driver's door and looked inside the car in case Ms. S [REDACTED] had dropped something. He stuck his head inside the car. He visually inspected the center console and cup holder area but did not open up the console.

He looked on the floor and moved some papers around on the floor and on the console. In his experience, packaging for narcotics can be hidden beneath things. He did not see anything that raised his suspicion. He did not know what parts of Ms. S [REDACTED]'s body PO C [REDACTED] frisked.

Sgt. C [REDACTED] called over the radio shortly thereafter that it was not a drug transaction. PO Hebert could not recall for certain, but believed that PO H [REDACTED] and PO D [REDACTED] were the other members of the team that day. PO Hebert and PO C [REDACTED] explained the reason for the stop to Ms. S [REDACTED] and then left. He could not recall if he ever learned what the object was that had been exchanged for the money.

PO Hebert was not able to see what was happening with the two males and the other members of his team while he and PO C [REDACTED] interacted with Ms. S [REDACTED]. He believed that PO C [REDACTED] filled out a Stop, Question and Frisk Report. The incident lasted approximately five minutes. Once the officers were back in the car, they had a brief discussion about what had happened. This is when PO Hebert learned that Ms. S [REDACTED] worked in a nearby building and that she was the mother of one of the males and that she had given them lunch money.

Officers Not Interviewed

PO Jon M [REDACTED] R [REDACTED] the second officer assigned to the observation post on the date of the incident, was not interviewed. His memo book (encl. 22a-b) was received on February 14, 2011, and it did not include any entries pertaining to the stops of Mr. H [REDACTED] Mr. S [REDACTED] Mr. P [REDACTED] and Ms. S [REDACTED] or the observations that prompted the team to interact with them. Based on the statements provided by PO F [REDACTED] and, particularly, Sgt. C [REDACTED] PO Raggi's statement would not have affected the recommended dispositions for the allegations in this complaint.

NYPD Documents

Roll Call

The roll call from the date of the incident confirms that PO C [REDACTED] PO Hebert, PO H [REDACTED] and PO D [REDACTED] were working a SNEU assignment (encl. 24a-d).

NYSPIN Results

According to inquiries regarding warrant checks performed on the date of the incident for Mr. H [REDACTED] Mr. S [REDACTED] and Ms. S [REDACTED] no checks were done (encl. 23a-d).

Stop, Question, and Frisk Index

The Stop, Question, and Frisk Index for the date of the incident (encl. 25a) does not show any Stop, Question, and Frisk Reports that were completed by any members of Sgt. Conca's team.

Status of Civil Proceedings

- A Notice of Claim has not been filed with the City of New York as of January 18, 2011 with regard to this incident.

Civilians Criminal History

- As of January 6, 2011, Office of Court Administration records reveal the following criminal convictions for G [REDACTED] H [REDACTED] (encl. 26a-d).
 - On April 15, 2010, he pled guilty to disorderly conduct and was given time served.
- As of January 6, 2011, Office of Court Administration records reveal no criminal convictions for M [REDACTED] S [REDACTED] (encl. 26e).

Civilians CCRB History

- This is the first CCRB complaint filed by Mr. H [REDACTED] (encl. 5a).

Subject Officers CCRB History

- [REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
- [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

Identification of Subject Officers

All of the officers interviewed admitted to being present for, and taking part in, this incident. Though PO H [REDACTED] did not admit to frisking anyone, the investigation is crediting that he frisked one of the males because Sgt. C [REDACTED] said that PO H [REDACTED] and PO D [REDACTED] frisked the other two males while he focused on the third. Additionally, Mr. H [REDACTED] alleged that PO H [REDACTED] frisked himself and Mr. P [REDACTED]. However, because of the inconsistencies between and among the civilian and officer statements regarding which officers performed the frisks, and because no documentation was prepared for this incident, it cannot be determined exactly who frisked whom. Because Sgt. C [REDACTED] was supervising this stop and was aware that civilians were being frisked, he is being held responsible for the stops and frisks of the individuals involved in this complaint.

Investigative Findings and Recommendations

Allegation A – Abuse of Authority: Sgt. J [REDACTED] C [REDACTED] authorized the stops of G [REDACTED] H [REDACTED] M [REDACTED] S [REDACTED] I [REDACTED] S [REDACTED] and M [REDACTED] P [REDACTED]

There is no dispute that a team of SNEU officers under the authority of Sgt. C [REDACTED] stopped Mr. H [REDACTED] Mr. S [REDACTED] Mr. P [REDACTED] and Ms. S [REDACTED]. However, the facts that led up to this point are disputed.

M [REDACTED] S [REDACTED] stated that his mother gave him a quantity of cash, but he did not give her anything in exchange. He further conceded that he handed the cash and a piece of paper to Mr. H [REDACTED] PO F [REDACTED] whose observation post was one full city block away from the Human Rights Administration Department of Social Services office (encl. 6a), said that he saw a black female give money to a black male, and then the male reached into his backpack and gave her a small piece of paper. He described the piece of paper as a couple of inches long and was small enough to fit in someone's palm. He could not remember the color or shape of the piece of paper. PO F [REDACTED] said that he included the aforementioned information in the call to his team. PO F [REDACTED] admitted he was not sure if he used binoculars during the observation.

PO D [REDACTED] said that the officers asked standard questions about where the men were coming from, but said the men answered these questions and provided their IDs when asked. Sgt. C [REDACTED] however, said that the men were frisked immediately. Similarly, Mr. H [REDACTED] and Mr. S [REDACTED] stated that they were not questioned, but immediately instructed to get against the wall. Thus, the investigation determined that the officers immediately indicated to the civilians that they were not free to leave. Consequently, the men were effectively stopped at this point.

According to the Street Encounters Legal Issues Memo Book Insert (encl. 1a), in order to stop an individual an officer must have “a reasonable suspicion that an individual is committing, has committed, or is about to commit a felony or Penal Law misdemeanor.” According to Sgt. Conca’s statement, the only information he and his team had before stopping Mr. H [REDACTED] Mr. S [REDACTED] Mr. P [REDACTED] and Ms. S [REDACTED] was that money was exchanged between Ms. S [REDACTED] and one or more of the individuals for an unknown object. Sgt. C [REDACTED] said that the observation officers did not specify what kind of object was exchanged for the money, and that the observation occurred from some distance which would have inhibited a clear sight of what the object was. The remaining officers interviewed could not recall if a description of the object was included in PO Fahim’s transmission. Sgt. Conca’s statement and PO Fahim’s explanation of the observation post’s distance from the incident suggest a clear view of this particular exchange was not possible.

An officer's training and experience should be considered when evaluating his or her observations of a hand-to-hand transaction. People v. McRay, 51 N.Y.2d 594, 601 [1980] (encl. 1b-n). As of July 22, 2010, the date of the incident giving rise to this complaint, PO F [REDACTED] had only been assigned to the SNEU team for approximately one year and three months. Before being assigned to SNEU, PO F [REDACTED] received only four days training on the packaging and identification of controlled substances and the nature of hand-to-hand transactions – and prior to his assignment to SNEU, PO F [REDACTED] had been on the force for less than three years. Given his limited training and experience, the investigation need not defer to his characterization of the exchange of money for a piece of paper as being indicative of a drug transaction.

The limited information supplied in the observation transmission - an exchange of money for a piece of paper in a location known for drug activity - was not sufficient to support the stop of this group of individuals. Additionally, the usual hallmarks of a drug transaction, such as the presence of glassine envelopes and/or furtive or evasive behavior which would indicate an attempt to evade detection, were absent from the interaction between the individuals involved in this incident. PO F [REDACTED] transmitted that he saw money exchanged for a small piece of paper, but not an envelope or vial which would typically indicate a drug sale. The interaction between Ms. S [REDACTED] her sons, and Mr. P [REDACTED] occurred in the middle of the day, and there was only one transaction between them – as opposed to multiple transactions with other individuals which would suggest that drug sales were made. Sgt. C [REDACTED] admittedly did not have complete information about the transaction that the observations officers saw, but he did not ask investigatory questions of the men when he approached and he did not attempt to gather further information from them about what they were doing or the alleged transaction that the observation team had seen. As the supervisor on the scene it was Sgt. Conca’s responsibility to ensure that the information transmitted by the observation post was accurate and complete, and that it provided sufficient legal justification before authorizing his team to stop this group of people. Sgt. C [REDACTED] escalated the encounter to a stop without having reasonable suspicion that a crime had been committed, and he therefore did not have sufficient justification for authorizing the stops. It is therefore recommended that **allegation A be substantiated.**

Allegation B – Abuse of Authority: Sgt. J. [REDACTED] C. [REDACTED] authorized the frisks of G. [REDACTED] H. [REDACTED] M. [REDACTED] S. [REDACTED] L. [REDACTED] S. [REDACTED] and M. [REDACTED] P. [REDACTED]

Sgt. C. [REDACTED] and PO D. [REDACTED] both admitted to conducting frisks during this incident. However, as noted above, the investigation could not conclude which officer frisked whom. However, because Sgt. C. [REDACTED] was supervising this stop and was aware that the civilians were being frisked, he is being held responsible for the frisks performed by himself and his team.

PO D. [REDACTED] said that one or more of the males put their hands in their pockets repeatedly and that he asked them to stop. PO D. [REDACTED] frisked only the area that one of the males had reached toward and did not frisk his groin or shake his shorts. He could not remember if he saw a bulge in any of this individual's pockets. Sgt. C. [REDACTED] said that he interacted with one individual primarily, though he did not recall the name of this individual and did not write it down. Sgt. C. [REDACTED] asked the individual to stay still when he first approached but the individual moved his hands in the area of his waistband and/or legs, which Sgt. C. [REDACTED] found to be suspicious. Sgt. C. [REDACTED] was unable to be more specific about this individual's actions. Sgt. C. [REDACTED] frisked the front and back of his waistband and continued his frisk to areas beyond his waistband area, including underneath his arms, underneath his shoulders, and down his legs. He did not feel any suspicious items during the frisk. Sgt. C. [REDACTED] said he did not see anything on the person of the individual that led him to believe he was armed, and PO D. [REDACTED] could not recall if he saw a bulge in the pockets of the person he frisked.

Subdivision one of Criminal Procedure Law ("CPL") 140.50 regarding temporary questioning of people in public places and searching for weapons (encl. 1o) states that an officer "may stop a person in a public place... when he reasonably suspects that such person is committing, has committed, or is about to commit either a felony or a misdemeanor defined in the penal law, and may demand of him his name, address, and an explanation of his conduct." CPL 140.50 provides that an officer may search a person for weapons when that person is stopped under circumstances as noted in subdivision one and the officer reasonably suspects that he is in danger. As discussed above, the stops of Mr. H. [REDACTED] Mr. S. [REDACTED] Mr. P. [REDACTED] and Ms. S. [REDACTED] were not justified. Neither Sgt. C. [REDACTED] nor PO D. [REDACTED] offered suspicion that any of the men were armed save for innocuous arm or hand movements, and none of the officers stated that they observed bulges on the civilians that they suspected were weapons. It follows, then, that Sgt. C. [REDACTED] was not justified in authorizing his officers to take the more invasive step of frisking them.

Virtually no investigatory questions were asked when the officers initially approached, and according to Sgt. C. [REDACTED] the officers had a minimal amount of information regarding the exchange. Sgt. C. [REDACTED] did not have a satisfactory amount of information to reasonably suspect that the group of males had engaged in criminal activity which would have justified the initial stop, nor did he later obtain any additional information to escalate to a higher level of invasiveness by performing a frisk himself or allowing officers under his authority to act similarly. It is therefore recommended that **allegation B be substantiated.**

Allegation C – Abuse of Authority: Sgt. J. [REDACTED] C. [REDACTED] authorized the searches of G. [REDACTED] H. [REDACTED] M. [REDACTED] S. [REDACTED] and M. [REDACTED] P. [REDACTED]

Mr. H. [REDACTED] said that PO H. [REDACTED] reached into one of his pants pockets, retrieved his wallet, removed his ID, and wrote his information down. He alleged that PO H. [REDACTED] reached into all of Mr. P. [REDACTED]'s pockets and that PO D. [REDACTED] reached into all of Mr. S. [REDACTED]'s pockets. Mr.

S████ said that Sgt. C████ reached into his shorts pockets and also unzipped and reached into his own backpack as well Mr. P████'s. None of the officers, however, admitted to reaching into any of the pockets of the individuals they stopped and frisked, and none of them remembered any of the men having backpacks. Absent any independent testimony or documentary evidence, it cannot be determined if Mr. H████ Mr. S████ or Mr. P████ were searched during this incident. It is therefore is recommended that **allegation C be unsubstantiated.**

Allegation D- Abuse of Authority: PO D████ C████ frisked L████ S████

Allegation E – Abuse of Authority: PO Christopher Hebert searched the car in which L████ S████ was an occupant.

Though Mr. H████ said that he learned after the incident that his mother, Ms. S████ was frisked and that her car was searched, he did not personally witness this portion of the incident and neither did Mr. S████ PO C████ admitted to conducting the frisk of Ms. S████ and PO Hebert admitted to searching the car. However, without a statement from Ms. S████ regarding her interaction with PO C████ and PO Hebert, the context and substance of that interaction cannot be determined. It is therefore recommended that **allegations D and E be closed as victim uncooperative.**

Allegation F – Other Misconduct: Sgt. I████ C████ failed to prepare a Stop, Question, and Frisk Report as required.

Allegation G – Other Misconduct: Sgt. I████ C████ failed to prepare a memo book entry as required.

Though nearly all of the officers interviewed in this incident stated that they believed or assumed that someone on their team completed Stop, Question, and Frisk Reports for all of the individuals stopped, none of the officers said that they personally filled out the reports. No officers claimed to have completed these reports, and these do not appear in the Stop, Question, and Frisk index obtained in this investigation (encl. 25a). According to PG 212-11, officers are required to “prepare a Stop, Question, and Frisk Report for each person stopped” (encl. 2a-c). As the supervisor on the scene, Sgt. C████ was ultimately responsible for ensuring that each officer on his team completed the necessary and relevant documentation for each person stopped during this encounter. Additionally, PG 212-08 (encl. 3a-c) requires that officers record “information pertinent to an assignment, or observed/suspected violation of law, i.e., action taken, narrative disposition, forms prepared with identifying serial numbers, etc.” in their memo books. Sgt. C████ did not create any notations in his memo book regarding this incident or the observation that was called over the radio which led to the interaction in the first place. Because Sgt. C████ failed to document this incident in any way, it is recommended that **other misconduct be noted for allegations F and G.**

Allegation H – Other Misconduct: PO G████ H████ failed to prepare a Stop, Question, and Frisk Report as required.

Allegation I – Other Misconduct: PO G████ H████ failed to prepare a memo book entry as required.

Allegation J – Other Misconduct: PO M████ D████ failed to prepare a Stop, Question, and Frisk Report as required.

Allegation K – Other Misconduct: PO M████ D████ failed to prepare a memo book entry as required.

Allegation L – Other Misconduct: PO D [REDACTED] C [REDACTED] failed to prepare a Stop, Question, and Frisk Report as required.

Allegation M – Other Misconduct: PO D [REDACTED] C [REDACTED] failed to prepare a memo book entry as required.

Allegation N – Other Misconduct: PO Christopher Hebert failed to prepare a Stop, Question, and Frisk Report as required.

Allegation O – Other Misconduct: PO Christopher Hebert failed to prepare a memo book entry as required.

Allegation P – Other Misconduct: PO J [REDACTED] F [REDACTED] failed to prepare a memo book entry as required.

Allegation Q – Other Misconduct: PO Jon M [REDACTED] R [REDACTED] failed to prepare a memo book entry as required.

As noted in the analysis of allegations F and G, PG 212-11 and PG 212-08 respectively require officers to complete Stop, Question, and Frisk Reports for every individual they stop and also to note facts and information regarding incidents in their memo books. When asked why he did not document this incident, PO H [REDACTED] said that he lost the piece of paper on which he had written Mr. H [REDACTED]'s information. According to the statements of Mr. H [REDACTED] PO H [REDACTED] and nearly all of the officers interviewed, PO H [REDACTED] was familiar with Mr. H [REDACTED] because of his history as a football player. PO H [REDACTED] in fact, stated that the first thing he said to Mr. H [REDACTED] upon initially approaching him was, "Are you G [REDACTED] H [REDACTED] PO H [REDACTED] was demonstrably aware of Mr. H [REDACTED]'s name and his memory would have provided him with enough information to complete a Stop, Question, and Frisk report regarding his interaction with Mr. H [REDACTED]. His failure to note Mr. H [REDACTED]'s information in either his memo book or in a Stop, Question, and Frisk report is therefore especially egregious. Furthermore, the additional officers on Sgt. Conca's team, all of whom admittedly participated in this incident in some capacity, failed to create any documentation regarding this incident or the observation that led up to it. It is therefore recommended that **other misconduct** be noted for **allegations H-Q**.

Team: _____

:

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date